

INVESTIGATION OF SOUTH KINGSTOWN'S
APRIL 19, 2019 RECOMMENDED STAFF REDUCTIONS

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I. BASIS FOR INVESTIGATION.

In May 2019, the Law Offices of Charles A. Ruggerio (“Firm”), was engaged by the South Kingstown School Department (“SKSD”) to conduct an independent investigation into the basis for several staffing changes including the consolidation, involuntary transfer, layoff and non-renewal of several teachers by Superintendent Kristen Stringfellow (“Superintendent” or “Stringfellow”) just prior to her resignation from the SKSD. The Superintendent’s recommendations were stayed by the SKSD’s School Committee and the School Committee commissioned the instant investigation into the propriety of, and motivation for, the personnel actions.

II. THE INVESTIGATION.

The investigation was comprised of the interviews of several SKSD employees, the interviews of other appropriate witnesses, and the review of pertinent statutes, policies, collective bargaining agreements (“CBA”), grievances and budget documents. The following individuals were interviewed on one or more occasions:

- (1) Mary Barden, National Education Association of Rhode Island, Field Representative;
- (2) Pauline Lisi, SKSD Assistant Superintendent;
- (3) Maryann Crawford, SKSD Chief Financial Officer;
- (4) Stephanie Canter, SKSD School Committee Chair;
- (5) Andrew Henneous, Esq., SKSD Attorney;
- (6) Robert Hicks, SKSD Interim Superintendent;
- (7) Kristen Stringfellow, Former Superintendent, SKSD.

All individuals were advised that the Firm was engaged by the SKSD to investigate the

basis for the April 19, 2019 recommended personnel actions. They were further advised the information provided during the course of the interview would be utilized in the development of a report detailing the findings on the aforementioned allegations.

The following documents were received and were considered during the course of the investigation:

- (1) The CBA between NEARI/South Kingstown and SKSD for the period of September 1, 2017 through August 31, 2020 (hereinafter “Exhibit 1”).
- (2) Personnel Assignment and Transfer Policy Summary (“PAT Policy”) 1st Edition (hereinafter “Exhibit 2”).
- (3) Memorandum of Agreement – New PAT Policy (4-9-19) (hereinafter “Exhibit 3”)
- (4) Email correspondence between Stringfellow and Brian Nelson (4-11-19) (hereinafter “Exhibit 4”).
- (5) 9 Teacher Displacement Notices (4-19-19) (hereinafter collectively “Exhibit 5”).
- (6) 69 Notices to Terminate Teacher Contracts (4-19-19) (hereinafter collectively “Exhibit 6”).
- (7) 9 Teacher Reassignment Notices (4-19-19) (hereinafter collectively “Exhibit 7”).
- (8) Excel Spreadsheet of Displaced Teachers (hereinafter “Exhibit 8”).
- (9) Superintendent’s Master Displacement Reassignment Spreadsheet (hereinafter “Exhibit 9”).
- (10) Budget Spreadsheet detailing position cuts (hereinafter “Exhibit 10”).
- (11) Layoff list dated effective June 1, 2019 (hereinafter “Exhibit 11”).
- (12) ELL/DLI Commitment to Participate and Acceptance Letter (hereinafter “Exhibit 12”).
- (13) NEASK CBA 2015-2017 (hereinafter “Exhibit 13”).
- (14) NEASK CBA 2013-2015 (hereinafter “Exhibit 14”).
- (15) School Committee Approved Budget FY 2020 (hereinafter “Exhibit 15”).

(16) NEASK Grievance Challenging Personnel Actions with attachment (hereinafter “Exhibit 16”).

(17) Tenured Teacher Status Spreadsheet (hereinafter “Exhibit 17”)

(18) Seniority List for 18-19 School Year (hereinafter “Exhibit 18”).

(19) May 22, 2019, termination notices and reduction notices (hereinafter “Exhibit 19”).

(20) SKSD Meeting Minutes of 4-26-19 (hereinafter “Exhibit 20”).

(21) SKSD Meeting Minutes of 5-3-19 (hereinafter “Exhibit 21”).

III. BACKGROUND AND RELEVANT FACTS.

SKSD is a public school district in Rhode Island serving approximately 3,200 students, comprised of four (4) elementary schools, two (2) middle schools and one (1) high school. It also employs approximately 330 teachers.

Following former Rhode Island Department of Education (“RIDE”) Commissioner Deborah Gist’s modification of the Basic Education Plan (“BEP”) in 2009, SKSD, like many other districts throughout Rhode Island, modified its teacher hiring and assignment process. On June 14, 2011, the SK School Committee instituted a Personnel Assignment and Transfer Policy (“PAT Policy”) which revised SKSD’s practice of awarding teaching positions through an annual job fair. Prior to enactment of the policy, teacher assignments were determined exclusively by seniority. The PAT Policy modified this practice and required student learning to be the primary focus point for determining teacher assignments. The new PAT Policy, provided for a so-called PAT Team, which was to be co-chaired by a SK principal (appointed by the Superintendent) and the President of NEA- SK. It provided in relevant part, that:

- (1) all teacher assignment decisions prospectively be in accordance with R.I.G.L. § 16- 2- 18, which requires the selection and appointment of all school department instructional personnel shall be made by the Superintendent with the consent of the School Committee;

- (2) all decisions regarding transfers, assignments, layoffs, and reinstatements shall be based on which teacher would be the most effective in meeting student needs; and
- (3) in the event the Superintendent concludes that two or more teachers would be equally effective, the most senior teacher will be awarded the position. See Exhibit 2.

The PAT Policy was thereafter incorporated into the parties' 2012-2015 CBA, obviating or otherwise modifying various other provisions of the CBA. Specifically, the new modifications made significant changes to the following sections of the CBA: Article 3, entitled "Teacher Evaluation;" Article 5, entitled "Vacancies, Transfers and Promotions;" Article 9, entitled "Seniority, Layoff and Recall;" and Article 20 (formerly Article 21), entitled "General." The CBA expressly indicates that the impacted sections within these Articles "shall be of no further force and effect" and instead "the School Committee policies, as they may be amended from time to time after discussion with NEASK, shall control these subjects." See Exhibit 14.

Of particular note were the significant changes to Article 5, and Article 9 of the CBA. Omitted from Article 5, were provisions which formerly required (1) all permanent vacancies first be filled from SKSD's recall list¹; (2) all positions still vacant at the conclusion of the school year be filled in accordance with the job fair procedures; and (3) a job fair that awards vacant positions to teachers possessing the appropriate certification based solely on their respective seniority. Importantly, however the revision left unchanged the specific process and notification deadlines for the involuntary transfer of teachers. See Exhibit 14 at Article 5(E). It continued to provide that an involuntary transfer may only be made after a meeting between the teacher involved and the Superintendent (or his/her designee) at which time the teacher shall be notified in writing of

¹ The Section specifically required "All vacancies (as defined above) shall first be filled from the recall list. In the event the vacancy is not filled in accordance with the recall procedures in Article 9.C, the vacancy shall be filled by temporary appointment." See Exhibit 14.

the reasons for the transfer. See id. It further continued to require that all involuntary transfers be for just cause and that all vacancies be filled with voluntary transfers whenever possible.²

In addition to the changes to the methods for personnel assignment beginning in 2015, SKSD commenced a new certification initiative designed to increase the number of SKSD teachers with English Language Learner (“ELL”) and Dual Language Immersion (“DLI”) certifications.³ The program covered the cost of tuition for approximately twenty-five (25) teachers to complete the necessary course work to obtain the ELL or DLI certification. Teachers who elected to participate in the program were required to sign a “Commitment to Participate” form which provided that participants understood that they would “be considered for positions in the DLI or ELL Program through the Personal Assignment Team Process, when they become available as the program is expanded.” See Exhibit 12.

In early January of 2019, Superintendent Kristen Stringfellow and other members of the SKSD administration began to prepare the District’s budget for the upcoming fiscal year. Due to a decline in student enrollment and modifications to the state funding formula, it was anticipated that the Department would lose approximately \$660,000 in state aid. To offset this loss of revenue the SKSD School Committee sought an additional 2.5% increase in the Town of South Kingstown’s local share of the budget, amounting to approximately \$1,250,000 in additional aid from the Town.

² The Section expressly provides as follows: “[t]he Committee and the Association recognize the prerogative of the Committee, through its Superintendent, to place teachers within the school system where they will best serve the interest of the school system. No teacher shall be transferred involuntarily without good cause.”

³ The District’s initiative followed a suit from a South Kingstown family which contended SKSD’s ELL programming was inconsistent with Rhode Island Department of Education regulations because SKSD students in need of ELL or Dual Language services were confined to a specific elementary school and unable to receive services in their neighborhood schools.

On January 7, 2019, Stringfellow met with members of her leadership team to begin to determine which personnel changes to make, including which positions to cut due to the impending budget gap. In addition to the cuts, Stringfellow was seeking to eliminate additional positions beyond those needed to close the budget gap and to repurpose them to new ELL certified positions as part of the District's long-term ELL certification initiative.

On April 19, 2019, Stringfellow issued a series of letters to teachers impacted by her recommended staffing plan for the upcoming 2019-2020 school year barring further modification to the Town's local appropriation. The first letter notified nine (9) teachers that they had been displaced from their teaching assignment upon the conclusion of the school year. Exhibit 4. Another letter was sent to nine (9) teachers notifying them that due to budget cuts, they had been transferred from their existing position to another position within the Department. Exhibit 6. Finally, a third letter was sent to sixty-nine (69) teachers, notifying them that pursuant to R.I.G.L. § 16-13-2, Stringfellow would be recommending to the School Committee that their teaching contracts be terminated at the conclusion of the 2018-2019 school year. Exhibit 5. None of the recipients of the April 19, 2019 letters had previously been advised by anyone from SKSD administration that they were going to be involuntarily transferred from their existing assignment or that their employment was in jeopardy.

On or about May 1, the South Kingstown Town Council rejected the School Committee's proposed 2.5% increase to SKSD, approving a more modest 1.75% increase to the Town's school appropriation for a total increased contribution of \$934,000.

The Committee never met to consider the Superintendent's recommendations to terminate the contracts of the sixty-nine (69) teachers who received the April 19, 2019 notice.⁴ Instead,

⁴ The Committee did not consider Stringfellow's displacement and reassignment of nine SKSD teachers at its meeting because neither the CBA nor the PATH Policy required the Committee to

after receiving several complaints from members of the SKSD school community, it commissioned this report seeking a detailed analysis regarding the propriety of Stringfellow's proposed personnel actions for the 2019-2020 school year, including the transfer decisions.

IV. SUMMARY OF INTERVIEWS.

(A) Summary of Interview with Pauline Lisi.

Pauline Lisi is the Deputy Superintendent of South Kingstown Public Schools and has served as an administrator for seven (7) years. Lisi indicated that the staffing plan for 2019-2020 underwent many iterations prior to the conclusion of the 2018-2019 school year. Beginning in January of 2019, Lisi stated she began participating in meetings with Stringfellow and other members of her leadership team to discuss what positions to cut to close an anticipated budget deficit of \$100,000. Lisi stated that this \$100,000 deficit was before accounting for employee raises due to step increases and already agreed-upon contractual raises.⁵ She reported that SKSD was facing a deficit before accounting for such increases due to the State funding formula's reallocation of state aid to education and a decrease in student enrollment throughout the district.

Lisi also indicated that the District was previously cited for failing to have certified ELL teachers in each of its elementary schools. Since that time SKSD developed a program to get more of its teachers ELL certified, by paying the tuition costs of approximately twenty-five (25) teachers who were interested in obtaining ELL certification. By participating in the program, these teachers agreed that they could subsequently be reassigned to an ELL position in a different school.

approve the displacement and reassignment of teachers. Once the issue arose with the termination notices, the School Committee decided to take a harder look at all of the personnel decisions.

⁵ Lisi indicated that the Town Council promised to increase its local aid to SKSD by \$534,000 to assist the Department in making up for the loss of approximately \$700,000 of state aid.

See also Exhibit 12. Lisi testified that the personnel changes made by Stringfellow as part of the 2019-2020 staffing plan included incorporating more ELL certified teachers in each of its elementary schools, and eliminating other certified positions.

Finally, Lisi indicated that Stringfellow did not meet with either the Union or any of the teachers impacted by her proposed consolidations and involuntary transfers prior to sending her April 19, 2019 notices. This deviated from prior years, Lisi said, when Stringfellow would meet with the Union and collectively identify the affected teachers and where they were to be reassigned.

(B) Summary of Interview with Maryann Crawford.

Maryann Crawford has served as the Chief Financial Officer for SKSD for five (5) years. She indicated that SKSD was notified in late December 2018, or early January of 2019, that SKSD would be losing approximately \$700,000 in state aid due to an anticipated reduction from the funding formula and a decrease in student enrollment. Crawford stated that shortly after receiving its preliminary projections for state aid, SKSD leadership met with members of the South Kingstown Town Council which assured SKSD that it would be proposing an increase to its local contribution to SKSD by 1%, or approximately \$534,000. Even with such an increase, Crawford indicated that SKSD would be facing a net loss of \$100,000 before accounting for agreed upon contractual salary increases and step increases. On or about April 9, 2019, Crawford indicated the Committee submitted its final budget to the Town Council seeking an increase of an additional \$1.25 million in local aid. Ultimately, the Council resolved to provide an additional \$934,000 to SKSD for its FY 20 budget, an increase of approximately \$400,000 beyond its initial verbal commitment to SKSD in January 2019. This allocation was finalized after a referendum challenging the appropriation was withdrawn on May 10.

Ultimately, SKSD's approved budget called for a reduction in employee salaries of approximately \$700,000.

(C) Summary of Interview with NEA Representative Mary Barden.

Assistant Executive Director Mary Barden is the National Education Association ("NEA") representative assigned to the SKSD. During her interview, Barden indicated that during the early spring of 2019, she began negotiating with SKSD counsel Andrew Henneous over a new PAT policy. Barden indicated the policy ultimately agreed upon by the parties was virtually identical to the policy utilized by the North Kingstown School District, another school district which employs teachers represented by Barden and the NEA. She indicated that the intent of the policy was to give greater import to teacher seniority when determining teacher assignments following displacement, layoff or involuntary transfers. She further indicated that it was the intention of the parties to preserve the obligation to meet with the Union and the affected teachers prior to the determination to involuntary transfer, displace or layoff an affected SKSD teacher. Barden indicated that this in fact, had been the process followed by the parties, including Stringfellow, for several school years. Despite this being the agreed upon process, Barden indicated that no such meetings occurred this school year.

Barden further indicated that several of the teachers identified for termination/layoff were either not the least senior in their respective area of certification or, even more significantly, were tenured teachers ineligible for non-renewal or termination for the upcoming 2019-2020 school year. On May 7, 2019, the Union filed a grievance contending that the displacement letters were sent to the wrong teachers in violation of the newly revised PAT policy and the CBA and the non-renewal/ termination notices should have been layoff notices and were in violation of both the

CBA and R.I.G.L § 16-13-2.

Barden noted that after Stringfellow's April 19, 2019 notices, she met with SKSD representatives in early May to review the list of affected teachers. She along with Interim Superintendent Robert Hicks then compiled a new layoff list that, according to Barden, correctly identified the appropriate teachers by seniority in area of certification to be laid off. These notices were later sent to the impacted teachers on May 22, 2019.

(D) Summary of Interview with SKSD Attorney Andrew Henneous.

Attorney Andrew Henneous is a Principal at the Law Firm of Henneous, Carroll & Lombardo and has served as counsel to SKSD since January 2019. Henneous explained that shortly after beginning his representation of SKSD he familiarized himself with SKSD's PAT Policy, which was negotiated by SKSD's previous counsel. In about the early spring of 2019, Henneous indicated that, at the direction of the SKSD School Committee, he began negotiations with NEA representatives about amending SKSD's PAT policy. He indicated that he was primarily responsible for these negotiations and that Stringfellow was not involved. Henneous stated that he and NEA representatives reviewed other PAT policies from other NEA districts and modified SKSD's policy to provide for some role for seniority in the reinstatement process. Ultimately, the parties looked to the North Kingstown School District's PAT policy as a close guide for the amendments. The parties' then memorialized their modifications to the PAT policy by entering into a Memorandum of Agreement on April 9, 2019.

Henneous indicated that Stringfellow only became aware of the changes to the PAT policy sometime in April 2019, around the time it was approved by the Committee. He reported, however, that Stringfellow was aware of the policy change prior to the issuance of the April 19, 2019 letters

to teachers. He reported however, that he was not consulted by Stringfellow with regard to the nature or the language of the April 19, 2019 notices nor was he consulted with regard to the teachers that were notified.

(E) Interview of Interim Superintendent Bob Hicks.

Superintendent Bob Hicks was formerly the Superintendent of SKSD and served as Superintendent immediately prior to the appointment of Stringfellow. He was appointed to serve as the SKSD Interim Superintendent by the Committee at its May 14, 2019 meeting. Hicks reported that on his first day on the job, he was provided copies of Stringfellow's April 19, 2019 letters and set out to determine whether each of the individuals that received a letter were appropriately notified. He reported that he began by reviewing the position list and a spreadsheet compiled by Stringfellow which detailed specifically which positions would be cut and the affected employees within those positions (Exhibit 9). He then reported that he met with NEA representatives and collectively they reviewed the seniority list and the positions identified to be cut by SKSD administration and the Committee. Hicks stated that collectively they came to a consensus regarding the personnel actions to take and which teachers to notify.

Hicks reported that thereafter, he rescinded the displacement and reassignment notices issued by Stringfellow. On May 22, 2019, Hicks issued new notices to teachers. As with the April notices, these notices informed certain teachers that they were either displaced from their teaching position, reassigned to a new teaching position, that their contract would be terminated at the conclusion of the 2018-2019 school year, or some combination thereof. See Exhibits 16 – 18. Finally, Hicks indicated that the Budget Reduction Plan document passed by the Board was a working document and did not specifically detail each position that was to be consolidated or cut

from each school. Instead, Hicks stated that the Plan required SKSD administration to exercise some discretion to determine, for example, which itinerant FTEs to eliminate in the District, while still complying with SKSD's legal obligations under FAPE, IDEA and the BEP.

(F) Summary of Interview with Superintendent Kristen Stringfellow.

Dr. Kristen Stringfellow served as the Superintendent of SKSD from February 2009 until June 30, 2019.⁶ Prior to her experience as SKSD's Superintendent, Stringfellow served as the Assistant Superintendent in Scituate Public Schools from 2000-2009.

Stringfellow reported that in mid to late 2010, she and other members of SKSD administration met with Commissioner Deborah Gist and Deputy Commissioner David Abbott who advised Stringfellow that SKSD needed to develop a method of assignment for teachers that complied with the BEP. At the time, Stringfellow indicated that SKSD assigned teaching positions to teachers exclusively by seniority at the annual job fair. Stringfellow recalled that Gist and Abbott indicated that the job fair process was not in compliance with the BEP and that if SKSD did not come into compliance RIDE could withhold State funding to SKSD. Stringfellow then worked with legal counsel to prepare SKSD's first PAT policy. Exhibit 2.

Following the adoption of the PAT policy by the Committee, a new subcommittee was formed which would administer the PAT policy and ensure compliance. It was co-chaired by Stringfellow and the NEASK Union President. Stringfellow reported that she would make a google spreadsheet that consisted of a list of teachers, their respective seniority dates, and the certifications they possessed. Although teachers would continue to be laid off by seniority, they

⁶ Though Stringfellow submitted her resignation on May 3, 2019, the effective date of her resignation was June 30, 2019, the conclusion of her contract year.

would be reinstated to positions based upon the determination as to the best interests of the students.

Stringfellow reported that as of April of 2019, SKSD faced a budget gap of 4.3 million against the District's "pro forma"⁷ due to decrease in State Aid, and a decrease in student enrollment. Stringfellow reported that it was not uncommon for SKSD to have to plan for a reduction in State funding. She reported that every year during her tenure SKSD was confronted with an annual reduction in State Aid.⁸

According to Stringfellow, beginning in December of 2018, Crawford met with members of the Town Council to provide them with the Department's pro forma and to discuss with them SKSD's additional funding needs for the 2019-2020 school year. She stated that the Council advised them to build the 2019-2020 SKSD budget around a 1% increase to the local portion of the SKSD budget. The Committee and Stringfellow then began work on a budget reduction plan to cut \$3.7 million from the SKSD budget.⁹

Stringfellow reported that after agreeing upon certain positions the Committee and SKSD believed could eliminate without compromising its organizational mission, Stringfellow was tasked with providing the Committee with "options" regarding which additional positions to eliminate or modify as part of the Budget Reduction Plan. She stated that the Committee was not specific regarding these other positions, providing guidance instead like "two additional High

⁷ Stringfellow explained that the District annually issues a pro forma budget, which includes step increases, the previous year's fiscal budget, and fuel and other anticipated fixed cost increases.

⁸ Stringfellow indicated that unlike many districts, state aid accounts for only a small percentage (7-9%) of SKSD's operating budget.

⁹ The result of the Council's additional 1% contribution was a reduction in the projected SKSD deficit from \$4.3 million to \$3.7 million.

School positions.” She indicated that it was the Committee which made the determination regarding which positions to cut and not SKSD administration. She indicated that she began this process of providing the Committee with options by consulting her Special Education Director and building administrators. It was the Principals and Special Education Director who came up with the additional positions to cut, according to Stringfellow. After receiving the recommendations from Principals and the Special Education Director, Stringfellow indicated that it was then her job to advocate as to why that position should be cut instead of others. In the majority of cases, Stringfellow reported only a portion of the position was cut (ex. .2 or .6 of an FTE), not the entirety of the position.

Stringfellow stated that following the passage of the revised PAT policy on April 9, there was a significant change in the displacement/involuntary transfer process. She stated that under her view of the new policy she wouldn’t necessarily know where the teachers were being reassigned to until each of the teachers selected a vacant position based upon their seniority. She indicated that the displaced teachers would have to receive a “vacancy list” by April 10. According to Stringfellow, a meeting was thereafter scheduled with the Union for May 14 to review which positions each of the displaced teachers selected.

Under the previous policy Stringfellow stated that she would meet with the PAT co-chair (Union President) prior to noticing teachers of their displacement or reassignment. She reported that this no longer made sense because the selection would be made by the teachers, rather than the PAT committee, based exclusively on their seniority.

Stringfellow stated that she wrote the April 19, 2019 notices to teachers over April break utilizing form letters that had been prepared by previous legal counsel to SKSD a number of years ago. She stated that the letters were identical to letters that had been sent in previous years.

Stringfellow indicated that she told the Committee on April 20 that the notices were being sent to teachers.

On April 23, Stringfellow stated that she was contacted by SKSD attorney Andrew Henneous to meet with her so that she could understand how the assignment process was to work pursuant to the new policy. On that same day Stringfellow stated that she was appointed Superintendent in Norwich, Connecticut. The following day she stated that she informed the School Committee that she was accepting the Superintendent position in Norwich.

(G) Summary of Interview with Chairwoman Stephanie Canter.

Stephanie Canter is the newly elected Chairwoman of the SKSD School Committee. Canter was first elected in November of 2018 along with two additional new School Committee members. She reported that five (5) of the seven (7) Committee members were relatively new to the Committee.¹⁰

Beginning in early 2019, Canter indicated that the Committee and the Administration were facing a significant deficit due to a reduction in State aid. As a result, she said, over the next several months both the Committee and SKSD administration were tasked with developing a Budget Reduction Plan for the upcoming 2019-2020 School Year. She reported that in the first phase of the plan, the Committee tasked Stringfellow and SKSD administration with identifying positions the Department could cut while still providing the level of services and support necessary to continue previously established Department initiatives and comply with the Department's legal obligations under federal and state law. Following consensus around these cuts, Canter reported that Stringfellow and SKSD administration was tasked with identifying deeper cuts. These were

¹⁰ Canter indicated that one member was appointed to a vacant seat after the 2018 election.

cuts that Canter identified as having negatively impacted the timeline for District initiatives but kept the District in compliance with its legal obligations. The Budget Reduction Plan did not specifically identify these positions by title, instead they identified the number of FTEs in a particular school or Office and Canter stated it was Stringfellow's responsibility to work with school staff to identify the specific position it could afford to cut. Canter reported that it was the expectation of the Committee that Stringfellow would inform and discuss the cuts with the Union and provide the specific recommendations for the Committee's final approval before notifying the teachers and bringing the recommendation to the Committee for a vote.

Canter reported that during the week of April 15, the final budgetary picture for the upcoming school year came to be finalized. Following Stringfellow's April 19th letter, Canter reported that she received an overwhelming number of calls from parents and staff with pleas not to cut certain positions. She further explained she received calls from SKSD administrators expressing surprise regarding some of the positions identified to be cut and concerns that their buildings would not be able to function or would be out of compliance with federal and state law if the identified positions were to be cut. Canter indicated that neither she nor other members of the Committee were ever notified by Stringfellow about the notices before they were sent. According to Canter, the notices were sent without any coordination with or forewarning to the Committee. Canter stated that she found this odd, because she had been communicating with Stringfellow throughout the day regarding the layoff process and whether teachers who would be laid off could receive a letter of recommendation from their respective administrators and Stringfellow never said anything about the imminent notices.¹¹ Canter stated that this was the last

¹¹ Canter stated that prior to the issuance of the letters, she had been contacted by a teacher who anticipated being laid off due to her limited seniority within the District, who advised Canter that she had been told that it was in violation of SKSD protocol for Administrators to provide letters of recommendation to teachers laid off by SKSD. According to Canter, the teacher told her that

communication she had with Stringfellow.

At its April 26, 2019, meeting the Committee placed Stringfellow on administrative leave pending an investigation into the circumstances surrounding the notices to teaching staff and related incidents. See Exhibit 19. On May 3, the Committee appointed Bob Hicks as Superintendent and authorized counsel to conduct the present investigation into the personnel actions taken by Stringfellow.

Following the appointment of Hicks, Canter reported that some of the personnel whom Stringfellow laid off had to be reinstated because the elimination of their position would have placed the Department out of legal compliance.

V. LEGAL ANALYSIS AND FINDINGS.

Rhode Island General Law § 16-13-1 et seq., generally referred to as the “Teacher Tenure Act” imposes upon school districts specific timelines to: (1) terminate the contract of non-tenured teachers, (2) notify both non-tenured and tenured teachers of layoffs and (3) effectuate the termination of either tenured or non-tenured teachers for good and just cause. Additionally, the CBA and the PAT Policy prescribe the circumstances and dictate the process to be followed when determining teacher assignments.

In the present matter, I am tasked with examining the propriety of each of the proposed personnel actions detailed in Superintendent Stringfellow’s April 19, 2019, correspondence in light of SKSD’s statutory and contractual obligations and its recently amended PAT Policy. In doing so, it is also necessary to understand both the reasoning behind and the need for each of the proposed personnel actions and the broader educational objectives they propose to serve.

previous legal counsel to SKSD had advised against providing letters of recommendation to outgoing staff because of the potential that it could lead to unnecessary litigation.

(A) The TEACHER “TERMINATIONS”

Rhode Island law has long required that to terminate any public school teacher, a school district must have good and just cause to support the termination. See R.I. Gen. Laws § 16-12-6¹²; see also McCrink v. City of Providence, 2012 WL 4739138 (R.I. Super., filed Sept. 28, 2012).(acknowledging the existence of this requirement for the termination of tenured and non-tenured teachers alike). Teachers in continuous service (i.e., tenured teachers) however, “shall not be subject to annual renewal or nonrenewal of their contracts and that no tenured teacher in continuous service shall be dismissed except for good and just cause.” R.I. Gen. Laws § 16-13-3(a).¹³ In contrast, a non-tenured teacher may have his or her teaching contract “non-renewed” prior to being in “continuous service” (i.e., acquiring tenure)¹⁴, by receiving notice prior to March 1st of the year in which his or her non-renewal is to become effective.

“Teaching service shall be on the basis of an annual contract, except as hereinafter provided, and the contract shall be deemed to be continuous unless the governing body of the schools shall notify the teacher, in writing, on or before March 1, that the contract for the ensuing year will not be renewed.” R.I. Gen. Laws § 16-13-2.

Under the non-renewal standard, non-tenured teachers may be dismissed without a showing of good and just cause provided there is a showing that the Department has a good faith belief that it can secure the services of an as yet unidentified better teacher. See Provencial v. Providence School Board, Comm’r Decision June 18, 2007; see also Jacob v. Board of Regents

¹² More specifically, this section provides that that “[t]he school committee of any town may, on reasonable notice and hearing, dismiss any teacher for refusal to conform to the regulations made by the committee, or for other just cause.”

¹⁴ Teachers who complete three (3) annual contracts within five (5) successive school years are deemed to have completed the necessary probationary period and are considered to be in continuous service (i.e., tenured) and shall not be subject to annual renewal or nonrenewal of their contracts. See R.I. Gen. Laws § 16-13-3(a).

for Ed., 117 R.I. 164, 365 A.2d 430 (1976) (holding that although school committee need not justify its dismissal of non-tenured teacher by showing of good and just cause, it does have duty to listen to dissatisfied terminated teachers in an objective manner and fairly consider its original decision).

Additionally, both tenured and non-tenured teachers may be “dismissed” due to fiscal exigency or programmatic change.

“Whenever a tenured teacher in continuous service is to be dismissed, the notice of the dismissal shall be given to the teacher, in writing, on or before March 1st of the school year immediately preceding the school year in which the dismissal is to become effective. If the dismissal is based on fiscal exigency or program reorganization, the notice of dismissal shall be given to the teacher, in writing, on or before June 1st of the school year immediately preceding the school year in which the dismissal is to become effective. R.I. Gen. Laws § 16-13-3(a).

Similarly, both tenured and non-tenured teachers may be “suspended” due to a decrease in student population.

“A school board may, by reason of a substantial decrease of pupil population within its school system, suspend teachers in numbers necessitated by the decrease in pupil population; provided, however, that suspension of teachers shall be in the inverse order of their employment unless it is necessary to retain certain teachers of technical subjects whose places cannot be filled by teachers of earlier appointment; and, provided further, that teachers who are suspended shall be reinstated in the inverse order of their suspension. No new appointments shall be made while there are available teachers so suspended.” R.I. Gen. Laws § 16-13-6.

Under both circumstances teachers are in essence laid off from their assignments and by virtue of most collective bargaining agreements, or in the case of a decrease in student enrollment the statute itself, have reinstatement rights to a teaching position within the district. Notice under these sections must be given to the teacher no later than June 1, and upon request, teachers shall be furnished a statement of cause for non-renewal or dismissal.

In the present case, the April 19, 2019 termination notices failed to provide to the affected teachers even a modicum of insight as to why it was being recommended to the Committee that

their contract be “terminated” at the conclusion of the 2018-2019 school year. Is it because there is a good faith belief that there is a better teacher yet unidentified? Is it because of programmatic change or fiscal exigency? Is it because of a decrease in student population? Were the non-tenured teachers receiving such notices ‘non-renewed’ or were they laid-off with recall rights? The answers to these questions and which statutory process to necessarily follow are left unanswered upon a review of the notices.

During the course of her interview, Deputy Superintendent Pauline Lisi indicated that with the exception of one particular teacher, who had been notified of her non-renewal prior to April 19, 2019, due to performance related concerns, all of the teachers who received termination notices were teachers who were potentially impacted by the Budget Reduction Plan. Even assuming all the teachers who received the April 19, 2019 termination notices did so because they were potentially being laid off due to the impending budget gap, none of the teachers would have known whether they were non-renewed or laid-off with recall rights. Additionally, they would not have known whether dismissal was due to a programmatic change, fiscal exigency or some other reason.

During her interview, Stringfellow indicated that the April 19, 2019, termination notices were form notices previously prepared by SKSD’s former legal counsel and that they were routinely utilized by the Department since Stringfellow became Superintendent. However, there were significant differences in the notification process this school year from previous years. The record indicates that in previous years Stringfellow would meet with NEASK officials, discuss which positions the Department intended to cut and consolidate and review with the Union and ensure that the appropriate teachers were notified. Had this been done so, the teachers’ union representative would know the reasons for such personnel decisions which would thereafter be communicated to the member. That did not occur prior to Stringfellow’s issuance of the April 19,

2019 notices.

It should be noted that following the appointment of Interim Superintendent Hicks a similar notice was sent to teachers identified for layoff on May 22, 2019. However, much like in years past, these notices followed a collaborative process between SKSD administration and the impacted teachers' collective bargaining representatives at NEASK. Shortly following his appointment, Hicks rescinded the April 19, 2019 notices and met with NEASK officials to collectively review the SKSD's Budget Reduction Plan and the list of teachers impacted by the Plan. While facially, each of these May 22, 2019 notices have the identical deficiencies contained in the April 19, 2019 notice, the collaborative process engaged in by Hicks with NEASK provided the requisite notice to NEASK and the impacted teachers that the April 19, 2019 notices did not.

In sum, in the absence of any additional notice to the teachers or the Union, I find that the April 19, 2019, letters failed to provide teachers adequate notice so as to afford them a meaningful opportunity to advocate before the Committee for the restoration of their positions.¹⁵

(B) The SY 19-20 Budget and the Budget Reduction Plan.

The interviews of Lisi, Crawford and Stringfellow, provided necessary insight into the financial challenges facing SKSD for the upcoming school year. It cannot reasonably be disputed that beginning in January of 2019, SKSD was presented with serious fiscal challenges it was required to resolve for the upcoming school year. While the Town's commitment of additional local aid to SKSD certainly helped mitigate some of the shortfall, as of April 2019, SKSD was ultimately left with no choice other than to make several cuts to various teaching personnel. In making the determination as to which positions to consolidate or otherwise eliminate, SKSD was

¹⁵ It is possible that the legal inadequacy of this notice could potentially be cured should SKSD be required to re-notice the effected teachers of a new evidentiary hearing after their filing of an appeal challenging the non-renewal decision.

unrestrained by either statute or CBA and could exercise its management prerogative to determine which consolidations/cuts would have the least impact on student achievement.

The record indicates that upon becoming aware of the upcoming shortfall, the Committee met with Town Council leadership and thereafter adopted a Budget Reduction based upon an expected increase of 1% in local aid. Committee Chairwoman Stephanie Canter indicated, that the Committee initially worked with Stringfellow and SKSD administration to determine collectively which specific teaching positions it could cut that would enable SKSD to continue to provide the same level of services and support to SKSD students. Once complete, both Canter and Stringfellow reported that Stringfellow and SKSD administration were tasked with identifying deeper consolidations/cuts that although diminished the services and support provided to students, nevertheless kept SKSD in compliance with its legal obligations under RIDE regulations and State and Federal law. Instead of designating specific positions, the Committee in its Budget Reduction Plan designated a specific number of additional FTEs that would have to be cut from each of the schools. It was then left to the discretion of the Superintendent to work with the building administrator and the Special Education Director to determine which additional positions (or fractions thereof to eliminate). Stringfellow indicated that following the direction of the Committee she met with the Special Education Director and each of the SKSD's principals to determine which additional positions could be cut. This was corroborated by both Pauline Lisi and Maryann Crawford.

It would initially appear that given the Committee's instruction, Stringfellow over-identified the number of teachers to be consolidated or cut when sending her April 19, 2019 notice. In Stringfellow's final budget cut document she identifies a total of 28.9 FTEs to be eliminated due to the Budget Reduction Plan. See Exhibit 10. Despite the elimination of less than 30 total

full FTEs from the budget, sixty-nine (69) teachers received notice that it was being recommended to the Committee that their teaching contract be terminated. In comparison, the notices sent by Interim Superintendent Hicks following the rescission of the April 19, 2019 notice were sent to only forty-one (41) teachers and were revised to certain teachers were only having their positions reduced and not their employment eliminated entirely. Ultimately, a total of 23 teachers were laid off and another 16 teachers had their positions reduced in some manner. See Exhibit 11.

This over-identification is further explained by the number of FTEs that were only partial cuts. In many instances Stringfellow only recommended partial cuts to academic support positions, split and special education positions. It is logical then that each teacher who had their position recommended for partial reduction would receive some kind of notice informing them of the recommended modification to their assignment.

Initially, I find credible however, Stringfellow's explanation that she wanted to afford the Committee options with respect to these unidentified FTE cuts rather than make the determination without its input.

Once identified however, Canter reported that Stringfellow was directed to bring these recommendations back to the Committee for approval and review the list of impacted teachers with the Union *before* officially notifying the impacted teachers. It is uncontroverted that this did not occur prior to the April 19, 2019 notices, causing confusion and chaos for everyone involved.

It is clear that as of April 19, 2019, SKSD still did not know every specific position that was being reduced or eliminated. This is demonstrated quite unequivocally by the 'options' Stringfellow sought to provide to the Committee and the over-notification of employees, which resulted in teachers receiving notices. It is logical that before causing unnecessary upheaval amongst its staff, the Committee, SKSD administration and the Union would have a final

understanding of specifically which positions and which staff members were being laid off. It was not necessary to notify teachers until such time as it was conclusively determined by the Committee which teachers specifically were being laid off and consolidated. Stringfellow and SKSD administration certainly could have presented the Committee with options for this second phase of cuts/consolidations before sending official notice to the affected teachers. In fact, the evidence suggests that Stringfellow was aware that this was the process to be followed.

In an email dated, April 11, 2019, NEASK President Brian Nelson requested to meet with Stringfellow to discuss “which positions are going to be eliminated, who is actually being laid off and who has submitted their retirement letter. Exhibit 4. Stringfellow agreed to his request, indicating that she agreed they need to meet well before the transfer process even starts. Id. She further indicated that before determining which positions are going to be eliminated, she needed to Principals to finish their schedules, verify elementary enrollments and consult with SKSD attorney Andrew Henneous regarding certain policy questions.¹⁶ Id. In addition to her email assurance of April 11, 2019, this was the process followed by SKSD administration and the Committee during the deliberations regarding the first round of cuts/consolidations.

Further, the Committee was not discussing the job performance of each of the teachers, as identified on the April 19, 2019 notice. According to all accounts, none of these teachers were being considered for termination as a result job performance. The April 19, 2019 letters were thus inaccurate and led all the teachers who received them to wrongly believe their job performance was at issue.

Finally, the record is clear that Stringfellow did not advise members of the Committee or SKSD’s attorney Andrew Henneous in advance of sending the April 19, 2019 notices. Canter

¹⁶ It should be noted that this email was sent immediately after the finalization of the MOU modifying the PATH policy between SKSD and NEASK.

reported that she had been in frequent contact with Stringfellow regarding the potential layoffs and in fact spoke repeatedly with Stringfellow on April 19, 2019. Specifically, they spoke about the Department's policy of precluding administrators in the department from writing recommendations to potentially laid-off teachers. Despite this continued contact, Stringfellow made no mention that she intended to send notices to teachers on April 19, 2019. Nor did she meet and acquire the Union's approval regarding the final list of affected teachers. In short, credible evidence exists to conclude that Stringfellow was directed to bring back the final list of cuts/consolidations to the Committee for its final approval before notifying teachers. This clearly was not done.

Accordingly, I find that Stringfellow's selection process and notices were improper as they were not in accordance with established practice or the Committee's direction. While it is alleged that some of the cuts/consolidations proposed by Stringfellow would have caused the Department to be out of compliance with its legal obligations under IDEA and FAPE and that certain more senior teachers were consolidated in place of more junior teachers within the same certification area in violation of R.I. Gen. Laws § 16-13-6, I find insufficient evidence to reach findings on these allegations. The record does not include sufficient evidence to determine whether such personnel actions would result in SKSD's inability to provide services necessary to satisfy its legal obligations.

(C) The Involuntary Transfers and the PAT Policy.

The PAT policy initially adopted by SKSD in 2015, modified quite significantly the process set for in the CBA by which teachers would be transferred, eliminating the prior practice of making various personnel decisions solely by seniority. Its further modification in April of

2019, restored seniority as a factor to be considered when assigning teachers to teaching positions following a layoff or an involuntary transfer. Some requirements of the CBA have remained consistent throughout each iteration of the PATH policy and remain contractual obligations today.

Article 5, Section E(3) of the CBA provides that a teacher shall only be involuntarily transferred following a meeting between the teacher involved and the Superintendent (or his/her designee) and the teacher at that time shall be notified of the reason for the involuntary transfer. Subsection (4) of that same section further provides that teachers shall not be involuntarily transferred without good cause. While other CBA provisions were modified or otherwise stricken in their entirety, these requirements have remained consistent throughout each CBA following the issuance of the PATH policy and its recent amendment in April

The record indicates that prior to the issuance of the April 19, 2019 involuntary transfer letters, Stringfellow committed to meeting with NEASK President Brian Nelson to review the teachers in jeopardy of being laid off or involuntarily transferred. Not only did this meeting not occur, neither Stringfellow nor her designee met with any of the teachers prior to their receipt of the April 19, 2019 notice. Both Lisi and Crawford reported that this was contrary to the practice in prior years, when Stringfellow would meet with NEASK representatives in anticipation of any cuts/consolidations. The recent changes to the PATH policy did not modify this obligation. SKSD Attorney Andrew Henneous and Stringfellow herself both said Stringfellow did not participate in the negotiation of the revised PATH policy, which was negotiated largely between Andrew Henneous and NEASK representative Mary Barden. Though she was largely unaware of the changes in the MOA until after it was negotiated, Stringfellow knew enough to inform NEASK President Brian Nelson that she needed to check in with Henneous before finalizing the determination of which positions would be cut/consolidated for the 2019-2020 school year.

The failure to meet with teachers prior to their involuntary transfer and provided them written notice of the reason for their transfer is a clear violation of Article 5 of the CBA which needlessly created problems for the School Committee and for the affected teachers.

In summary, it is clear that Stringfellow was aware of the established process for handling personnel decisions and failed to adhere to them, creating unnecessary issues for both the School Department and the affected teachers. This failure, in the least, amounted to negligence perhaps because she was engaged in the process of transitioning to her new position outside the School Department. There is no evidence that any School Committee member was aware of the deficiencies or Stringfellow's notices prior to the time they were issued, and thus, there was no way for the Committee to have avoided the problem. It is commendable that the School Committee and the Union have since worked collaboratively to reach a consensus that avoids the uncertainty of a legal challenge to SKSD's cuts/consolidations for the 2019-2020 school year.

Respectfully Submitted,

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